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UNITED STATES DISTRICT COURT

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NORTHERN DISTRICT OF CALIFORNIA

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SAN JOSE DIVISION

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15 | PAUL ORSHAN, CHRISTOPHER | Case No. 5:14-CV-05659-EJD

16 ENDARA, and DAVID HENDERSON,
   individually, and on behalf of all others | **DEFENDANT APPLE INC.'S**

17 similarly situated, | **STATEMENT OF RECENT DECISIONS**

18   Plaintiffs, | Hearing Date: July 16, 2015
                                   | Time: 9:00 a.m.
19   v. | Judge: Hon. Edward J. Davila
                                   | Courtroom: 4, 5th Floor
20 APPLE INC.,

                       Defendant.
21

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23   Pursuant to Civil Local Rule 7-3(d)(2), Defendant Apple Inc. ("Apple") hereby submits

   three recent decisions relevant to Apple's pending Motion to Dismiss First Amended Class
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   Action Complaint (Dkt. No. 24), which the Court took under submission without oral argument
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   on July 13, 2015 (Dkt. No. 35). Attached hereto as **Exhibit A** is a true and correct copy of the
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   April 7, 2016 decision by Judge Whyte granting Defendant Advanced Micro Devices, Inc.'s
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   motion to dismiss in *Dickey v. Advanced Micro Devices, Inc.*, No. 5:15-cv-04922-RMW, 2016
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1 WL 1375571 (N.D. Cal. Apr. 7, 2016). In *Dickey*, the Court held in relevant part that the plaintiff

2 failed to allege sufficient facts to support the plaintiff's alleged "expectation" as to the meaning of

3 the term "core" in a "core processor." *Id.* at *4-5.

4 Attached hereto as **Exhibit B** is a true and correct copy of the April 15, 2016 decision by

5 Judge Whyte granting Apple's motion to dismiss in *Palmer v. Apple Inc.*, No. 5:15-cv-05808-

6 RMW (N.D. Cal. Apr. 15, 2016). In *Palmer*, the Court held in relevant part that the plaintiff

7 lacked standing and did not establish reliance because he failed to identify "which specific

8 advertisements or statements" relating to iPhone data and WiFi usage "he personally saw or when

9 they were made," much less that such statements "were false." *Id.* at 9.

10 Attached hereto as **Exhibit C** is a true and correct copy of the April 19, 2016 decision by

11 Judge Koh granting Apple's motion to dismiss in *Phillips v. Apple Inc.*, No. 15-cv-04879-LHK

12 (N.D. Cal. Apr. 19, 2016). In *Phillips*, the Court held in relevant part that the plaintiffs failed to

13 allege with sufficient particularity that they relied upon any specific false representation or

14 omission regarding data usage before downloading Apple's operating software (iOS 9) or using

15 WiFi Assist and therefore lacked statutory and Article III standing. *Id.* at 10-14.

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18 Dated: April 22, 2016   O'MELVENY & MYERS LLP
MATTHEW D. POWERS

19   By: /s/ Matthew D. Powers

20   Matthew D. Powers

21   Attorneys for Defendant
APPLE INC.

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STATEMENT OF RECENT DECISIONS
5:14-CV-05659-EJD